

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

SHAWN WYGANT et al.,

Plaintiff,

v.

Case Number 09-CV-11684
Honorable Thomas L. Ludington

MARY STRAND et al.,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING COMPLAINT FOR WANT OF PROSECUTION**

This matter is before the Court on the report and recommendation (ECF No. 33) issued by Magistrate Judge Charles E. Binder on January 24, 2012, recommending the case be dismissed for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Judge Binder observes that Defendant moved to dismiss the complaint on October 28, 2011. See ECF No. 32. Plaintiff has not responded to the motion, nor has he had any communication with the Court regarding this litigation since June 2011. Accordingly, Judge Binder recommends that the Court dismiss Plaintiff's complaint without prejudice for want of prosecution pursuant to Rule 41(b), which authorizes the involuntary dismissal of a complaint "[i]f the plaintiff fails to prosecute or to comply with . . . a court order."

As of today's date, no party has filed any objections to Judge Binder's report and recommendation. The failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th

Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that Judge Binder's report and recommendation (ECF No. 33) is **ADOPTED**.

It is further **ORDERED** that Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

Dated: February 13, 2012

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means on February 13, 2012.

s/Tracy A. Jacobs
TRACY A. JACOBS